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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,175	12/26/2001	William J. Drasler		6071
7590	07/28/2004		EXAMINER	
William J. Drasler 4100 Dynasty Drive Minnetonka, MN 55345				THALER, MICHAEL H
		ART UNIT	PAPER NUMBER	3731

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,175	DRASLER ET AL.	
	Examiner	Art Unit	
	Michael Thaler	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 65-87 and 89-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 65-87 and 89-91 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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The final rejection mailed April 1, 2004 is hereby withdrawn. The amendment filed June 25, 2004 has been entered.

Claims 65-87 and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenhalgh (6,192,944) in view of Schmitt (5,383,925). Greenhalgh, in figure 4C, discloses flexible strands 36 interwoven with flexible strands 40 and structural strands 42 wherein any one of said flexible strands 40 is replaced by one of said circumferential structural strands 42. The structural and the flexible strands have substantially continuous contact with neighboring strands such that the composite wall structure will not significantly leak blood serum (col. 3, lines 44-53, col. 5, line 42, noting the phrase "sealing ability" and col. 7, lines 61-66). The structural strands inherently provide for anti-kinking characteristics for the vascular tubular member, are exposed an equal portion to both the inside and outside of the tubular member and make up an equal portion of the inner and outer surfaces of the tubular member as claimed. Greenhalgh fails to disclose the flexible strands 36 having an axial componency and the flexible strands 40 and the structural strands 42 having circumferential componency. However, Schmitt teaches that the strands of a vascular graft should be angled with respect to the longitudinal axis of the graft (col. 11, line 59 to col. 12, line 3)

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apparently in order to obtain the advantage of high strength for the graft. It would have been obvious to so angle the Greenhalgh strands so that it too would have this advantage. With this modification, all strands would have both axial compoenency and circumferential compoenency. As to claim 69, note col. 7, lines 48-53 of Greenhalgh. As to claim 70, for example, Greenhalgh fails to disclose the strands being multifilament. However, Schmitt teaches that the strands of a vascular graft can be multifilament instead of monofilament (col. 9, lines 67 to col. 10, line 2) in order to obtain the advantage of high crush resistance for the graft. It would have been obvious to make the Greenhalgh strands multifilament so that it too would have this advantage. As to claims 75 and 76, Greenhalgh fails to disclose the strands 42 as being metal. However, it would have been obvious to make them metal since Greenhalgh teaches that they should be made of a stronger material (col. 5, lines 43-45) and since it is well known that metal is generally stronger than polymers. As to claim 89, some of the strands 36 of Greenhalgh are considered to be structural strands.

Claims 90 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenhalgh (6,192,944) in view of Schmitt (5,383,925) as applied to claim 89 above, and further in view of Robichon et al. (6,102,940). Greenhalgh fails to

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disclose the axial structural strands extending beyond an end of the tubular member to be attached to an attachment means. However, Robichon et al. teach that a vascular graft should include such axial strands (at the top of 126 figure 3) so that attachment means 190 can be attached thereto to be spaced from the end of the graft. It would have been obvious to so form the axial structural stands of Greenhalgh so that it too would have this advantage.

Applicant's arguments with respect to claims 65-87 and 89-91 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

mht
7/26/04



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731